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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13

14 LAURA RANDALL, on behalf of herself and
all others similarly situated,

15
16 Plaintiff,

17 v.

18 WALMART.COM USA LLC, WAL-MART
STORES, INC. and NETFLIX, INC.,

19 Defendants.
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Case No. 09-0368-EMC

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

1 Pursuant to Local Rule 3-12(b), Plaintiff Laura Randall, plaintiff in Case No. 09-cv-00368
2 (*Randall v. Walmart.com USA LLC, et al.*), respectfully submits this administrative motion for the
3 Court to consider whether *Randall v. Walmart.com USA LLC, et al.*, a putative class action lawsuit
4 filed on January 27, 2009, should be related to *Andrea Resnick, et al. v. Walmart.com USA LLC, et*
5 *al.*, Case No 09-cv-0002, filed on January 2, 2009, the low-numbered action also pending in this
6 District. That action has been assigned to the Honorable Phyllis J. Hamilton. In addition to the
7 *Resnick* action, other related actions pending in this District are:

- 8 • *Resnick, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00002-PJH (N.D. Cal.),
9 filed January 2, 2009;
- 10 • *O'Connor v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00096-PJH (N.D. Cal.), filed
11 January 9, 2009;
- 12 • *Endzweig v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00111-PJH (N.D. Cal.), filed
13 January 9, 2009;
- 14 • *Schmitz v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00116-PJH (N.D. Cal.), filed
15 January 9, 2009;
- 16 • *Lynch, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00138-PJH (N.D. Cal.), filed
17 January 12, 2000;
- 18 • *Groce, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00139-PJH (N.D. Cal.), filed
19 January 12, 2009;
- 20 • *Sivek v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00156-PJH (N.D. Cal.), filed
21 January 13, 2009;
- 22 • *Faris v. Netflix, Inc., et al.*, Case No. 09-cv-00180-PJH (N.D. Cal.), filed January 14, 2009;
- 23 • *Slobodin v. Netflix, Inc., et al.*, Case No. 09-cv-00225-PJH (N.D. Cal.), filed January 16,
24 2009;
- 25 • *Anthony, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00236-PJH (N.D. Cal.);
26 filed January 20, 2009;
- 27 • *Polk-Stamps v. Netflix, Inc., et al.*, Case No. 09-cv-00244-PJH (N.D. Cal.), filed January 20,
28 2009;
- *Sheeler v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00274-JL (N.D. Cal.), filed
January 22, 2009;

- 1 • *Chapman v. Netflix, Inc., et al.*, Case No. 09-cv-00294-PJH (N.D. Cal.), filed January 22,
2 2009;
- 3 • *Orozco v. Netflix, Inc., et al.*, Case No. 09-cv-00297-PJH (N.D. Cal.), filed January 22,
4 2009;
- 5 • *Landels, et al. v. Netflix Inc., et al.*, Case No. 09-cv-00340-MEJ (N.D. Cal.), filed January
6 26, 2009;
- 7 • *Grime v. Netflix Inc., et al.*, Case No. 09-cv-00349-EMC (N.D. Cal.), filed January 26, 2009;
- 8 • *Meyer v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00361-BZ (N.D. Cal.), filed
9 January 27, 2009;
- 10 • *Randall v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00368-EMC (N.D. Cal.), filed
11 January 27, 2009;
- 12 • *Hirsch v. Netflix, Inc, et al.*, Case No. 09-cv-00375-EDL (N.D. Cal.), filed January 27, 2009;
- 13 • *Miscioscia v. Netflix, Inc., et al.*, Case No. 09-cv-00377-EDL (N.D. Cal.), filed January 27,
14 2009;
- 15 • *Patras, et al. v. Netflix, Inc., et al.*, Case No. 09-cv-00378-MEJ (N.D. Cal.), filed January
16 27, 2009;
- 17 • *Chatelain v. Netflix, Inc., et al.*, Case No. 09-cv-00391-MEJ (N.D. Cal.), filed January 28,
18 2009;
- 19 • *Millrood v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00399-JCS (N.D. Cal.), filed
20 January 28, 2009; and
- 21 • *Kober v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00400-EDL (N.D. Cal.), filed
22 January 28, 2009.

23 On January 27, 2009, the Randall Plaintiff filed an action under sections 1 and 2 of the
24 Sherman Act, alleging that on or about May 19, 2005, Defendants Netflix, Inc. (“Netflix”), Wal-
25 Mart Stores, Inc. (“Wal-Mart Stores”), and Walmart.com USA LLC (“Walmart.com”), a wholly
26 owned subsidiary of Wal-Mart Stores, entered into a contract, combination and conspiracy to divide
27 and allocate the market for the online rentals of Digital Video Discs (“DVDs”) and for the sale of
28 new DVDs in the United States. The purpose and effect of this agreement was to divide and
allocate the market for and to monopolize and unreasonably restrain trade for online DVD rentals.
The alleged conspiracy enabled Netflix to charge its customer’s higher subscription prices for the

1 rental of DVDs than it otherwise would have. As a result of Defendants' contract, combination, and
2 conspiracy as well as Netflix's unlawfully acquired and maintained market and monopoly power,
3 Netflix actually did charge Plaintiff supracompetitive subscription prices for the rental of DVDs.
4 Plaintiff and all other similarly situated direct purchasers in fact paid higher subscription prices.

5 The *O'Connor*, *Endzweig*, *Schmitz*, *Lynch*, and *Groce* actions were ordered related to the
6 *Resnick* action on January 16, 2009. The *Sivek*, *Faris*, and *Anthony* actions were ordered related to
7 the *Resnick* action on January 26, 2009. The *Slobodin*, *Polk-Stamps*, *Chapman*, and *Orozco* actions
8 were related to the *Resnick* action on January 29, 2009. All of these related actions have been
9 assigned to the Honorable Phyllis J. Hamilton. This action-the *Randall* action-as well as the
10 *Sheeler*, *Landels*, *Grime*, *Meyer*, *Hirsch*, *Miscioscia*, *Patras*, *Chatelain*, *Milrood*, and *Kober* actions
11 have not been related to the *Resnick* action as of the filing of this Administrative Motion.

12 The allegations of the *Randall* Plaintiff are substantially similar to those in the complaints
13 listed above, also filed in this District. All actions involve the same defendants, Netflix, Wal-Mart
14 Stores and Walmart.com, and allege defendants' misconduct in raising the subscription prices for
15 online DVD rentals in violation of Sections 1 and 2 of the Sherman Act. There can be no dispute
16 that the *Randall* Action is related to the above cases under Civil Local Rule 3-12(a). The actions
17 concern substantially the same parties and events; and it appears likely that there will be an unduly
18 burdensome duplication of labor and expense or conflicting results if the cases are conducted before
19 different judges.

20 All 24 cases pending in this District are at a preliminary stage and, thus, assignment to a
21 single judge would not prejudice any other parties. Because Judge Hamilton is familiar with the
22 facts, the parties and the claims, it would be an unduly burdensome duplication of labor and
23 expense if the cases are conducted before different judges. Relating this action to the *Resnick*
24 action, will also remove the risk of potential conflicting results. Pursuant to Local Rule 3-12, the
25 *Randall* Plaintiff respectfully requests that the action entitled *Randall v. Walmart.com USA, LLC, et*
26 *al.*, be deemed related to *Resnick, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00002-
27 PJH , the first filed case in this District, which is presently assigned to the Honorable Phyllis J.
28 Hamilton.

1 Dated: January 30, 2009

Respectfully submitted,

KAPLAN, FOX & KILSHEIMER, LLP

4 /s/ Linda M. Fong

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